

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

EIGHT MILE STYLE, LLC; MARTIN  
AFFILIATED, LLC,

Plaintiffs,

vs.

SPOTIFY USA INC.; THE HARRY FOX  
AGENCY, LLC,

Defendants.

Civil Action No. 19-cv-00736

District Judge Aleta A. Trauger

PLAINTIFFS', EIGHT MYLE STYLE, LLC'S  
AND MARTIN AFFILIATED, LLC'S, MOTION  
FOR SUMMARY JUDGMENT

JURY DEMAND

SPOTIFY USA INC.,

Third-Party Plaintiff,

vs.

KOBALT MUSIC PUBLISHING AMERICA,  
INC.,

Third-Party Defendant.

Pursuant to Fed. R. Civ. P. 56, Plaintiffs, Eight Mile Style, LLC and Martin Affiliated, LLC (collectively, “Eight Mile Style”) hereby respectfully move this honorable Court for an Order granting summary judgment in their favor in the first phase of this bifurcated action. As shown in Eight Mile Style’s Memorandum of Law and Separate Statement of Undisputed Facts pursuant to Local Rule 56.01(b), there are no genuine issues of fact and Eight Mile Style is entitled to judgment as a matter of law on the issues of: (1) copyright infringement against Spotify USA Inc.; (2) contributory copyright infringement against the Harry Fox Agency, LLC; and (3), that Defendants also have indisputably failed to comply with the Music Modernization Act’s (“MMA”), requirements to enjoy the provisional, effective and retroactive abrogation of all infringement claim based remedies (“provisional immunity from liability”) available under the United States Copyright Act, 17 U.S.C. §§ 101, *et seq.* In the alternative, as discussed more fully in Eight Mile Style’s Memorandum of Law, there are no genuine issues of fact which preclude summary judgment, and Eight Mile Style is entitled to judgment as a matter of law on the unconstitutionality of the MMA’s provisional immunity from liability.

**WHEREFORE**, this Court should issue Summary Judgment in favor of Eight Mile Style on the issue of liability against both Defendants.

Respectfully submitted on this 13<sup>th</sup> day of October 2023 by:

By: /s/ Richard S. Busch

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## **CERTIFICATE OF SERVICE**

I hereby certify that a true and accurate copy of the PLAINTIFFS', EIGHT MYLE STYLE, LLC'S AND MARTIN AFFILIATED, LLC'S, MOTION FOR SUMMARY JUDGMENT was filed electronically with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all parties and counsel of record by operation of the Court's CM/ECF system, and via electronic and/or U.S. mail, postage prepaid on October 13, 2023, to:

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